



# Veterans' Benefits: Burial Benefits and National Cemeteries

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## Summary

Burial benefits are monetary and nonmonetary benefits that eligible veterans receive for their military service. Nonmonetary burial benefits have been provided to servicemembers and veterans since the Civil War. Monetary burial benefits have been provided to servicemembers and veterans since World War I.

Eligible veterans and active duty members of the Armed Forces can be interred in national cemeteries, and can receive government-furnished headstones or markers, presidential memorial certificates, and burial flags. Their spouses or surviving spouses, minor children, and, under certain conditions, unmarried adult children may also be buried in national cemeteries.

Department of Veterans Affairs (VA) burial allowances are partial reimbursements for eligible veterans' burial and funeral costs. The allowance amount provided depends on whether the veteran's cause of death was service-connected or non-service-connected, or whether the death occurred in a VA facility. The next of kin to the veteran is eligible for reimbursement if he or she paid for the veteran's burial or funeral and has not been reimbursed by another government agency or some other source, such as the deceased veteran's employer.

The development of national cemeteries began as a result of the increasing number of Civil War casualties. The National Cemetery Act of 1867 was the first major piece of legislation to provide funds for, and directives about, national cemeteries. Today, there are 131 national cemeteries, along with 33 soldier's lots and monument sites, under the jurisdiction of the Department of Veterans Affairs.

Several bills have been introduced in the 111<sup>th</sup> Congress that would affect nonmonetary and monetary benefits, and national cemeteries: H.R. 174, H.R. 217, H.R. 731, H.R. 1037, H.R. 1114, H.R. 1163, H.R. 2586, H.R. 2594, H.R. 2642, H.R. 3544, H.R. 3949, H.R. 4044, H.R. 4045, H.R. 5879, H.R. 6042, S. 691, S. 728, and S. 746.

This report provides a descriptive analysis of both nonmonetary and monetary burial benefits and national cemeteries. This report addresses congressional and constituent issues such as who is eligible to receive burial benefits; who can be buried in a national cemetery; what plans does the Department of Veterans Affairs have to build new or expand existing national cemeteries; and what benefits does the VA provide, among others. These issues may be of particular interest to Congress due to the aging of the veteran population, the changes to eligibility requirements, and recent VA report findings and recommendations related to the establishment of national cemeteries. This report will be updated as legislation warrants.

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## Introduction

The Department of Veterans Affairs (VA) provides a range of benefits and services to veterans who meet certain eligibility rules; benefits include hospital and medical care, disability compensation and pensions,<sup>1</sup> education,<sup>2</sup> vocational rehabilitation and employment services,<sup>3</sup> assistance to homeless veterans,<sup>4</sup> home loan guarantees,<sup>5</sup> administration of life insurance as well as traumatic injury protection insurance for servicemembers, and death benefits that cover burial expenses.

The department carries out its programs nationwide through three administrations and the Board of Veterans Appeals (BVA). The Veterans Health Administration (VHA) is responsible for health care services and medical and prosthetic research programs. The Veterans Benefits Administration (VBA) is responsible for, among other things, providing compensation, pensions, and education assistance. The National Cemetery Administration (NCA)<sup>6</sup> is responsible for maintaining national veterans cemeteries; providing grants to states for establishing, expanding, or improving state veterans' cemeteries; and providing headstones and markers for the graves of eligible persons, among other things.

Burial benefits are monetary and nonmonetary benefits that eligible veterans receive for their service in the Armed Forces. As time progresses, the size of national cemeteries and the burial benefits program have increased.

Veterans or active duty servicemembers eligible for nonmonetary burial benefits can be interred in national cemeteries, and can receive government-furnished headstones or markers, presidential memorial certificates, and burial flags. Their spouses or surviving spouses, minor children, and, under certain conditions, unmarried adult children may also be buried in national cemeteries.

Monetary burial benefits are partial reimbursements that the next of kin of eligible veterans can receive for burial and funeral costs.<sup>7</sup> The amount of the reimbursement depends on whether the

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<sup>1</sup> For a detailed description of disability compensation and pension programs, see CRS Report RL34626, *Veterans' Benefits: Benefits Available for Disabled Veterans*, by Christine Scott and Carol D. Davis; CRS Report RL33323, *Veterans Affairs: Benefits for Service-Connected Disabilities*, by Douglas Reid Weimer; and CRS Report RS22804, *Veterans' Benefits: Pension Benefit Programs*, by Christine Scott and Carol D. Davis.

<sup>2</sup> For a discussion of education benefits, see CRS Report R40723, *Educational Assistance Programs Administered by the U.S. Department of Veterans Affairs*, by Cassandra Dortch.

<sup>3</sup> For details on VA's vocational rehabilitation and employment program, see CRS Report RL34627, *Veterans' Benefits: The Vocational Rehabilitation and Employment Program*, by Christine Scott and Carol D. Davis.

<sup>4</sup> For detailed information on homeless veterans programs, see CRS Report RL34024, *Veterans and Homelessness*, by Libby Perl.

<sup>5</sup> For details on the home loan guarantee program, see CRS Report RS20533, *VA-Home Loan Guaranty Program: An Overview*, by Bruce E. Foote.

<sup>6</sup> Established by the National Cemeteries Act of 1973 (P.L. 93-43).

<sup>7</sup> Next of kin—recognized in order: surviving spouse; children, according to age; parents, including adoptive, stepparents, and foster parents; brothers or sisters, including half or step brothers and sisters; grandparents; grandchildren; uncles or aunts; nephews or nieces; cousins; and/or other lineal descendent. For more information, see 38 C.F.R. § 38.633.

veteran's cause of death was service-connected or non-service-connected, or whether the death occurred in a VA facility.<sup>8</sup>

National cemeteries, beginning as a result of Civil War casualties, have expanded to include 131 cemeteries, as well as 33 soldier's lots and monument sites, under the jurisdiction of the Department of Veterans Affairs.<sup>9</sup>

This report focuses on burial benefits provided by the Department of Veterans Affairs, and does not discuss national cemeteries under the National Park Service, national cemeteries under the jurisdiction of the American Battle Monument Commission, or Arlington National Cemetery, which is within the jurisdiction of the Department of the Army.

## **Veterans Burial Benefits**

### **Eligibility Requirements for Burial in a National Cemetery**

Under current federal regulation, the following persons are eligible for burial in a VA national cemetery:<sup>10</sup>

- Any member of the Armed Forces of the United States who dies while on active duty;
- Veterans who are discharged under conditions other than dishonorable (with certain exceptions);<sup>11</sup>
- U.S. citizens who may have served in the armed forces of a U.S. ally during a time of war (service must have been terminated honorably by death or otherwise);
- Members of Reserve Components and the Reserve Officer Training Corps (ROTC);
- Commissioned officers of the National Oceanic and Atmospheric Administration;
- Commissioned officers of the Regular or Reserve Corps of the U.S. Public Health Service;
- World War II merchant mariners;

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<sup>8</sup> The term "service-connected" refers to deaths that occurred while on active duty or due to a condition incurred in or aggravated by active duty. The term "non-service-connected" refers to deaths that did not occur while on active duty or due to a condition that was not incurred in or aggravated by active duty.

<sup>9</sup> The term "soldier's lots" refers to the section of a public or private cemetery reserved for the interment of soldiers. These sections are under the purview of the nearest national cemetery.

<sup>10</sup> 38 C.F.R. § 38.620.

<sup>11</sup> For detailed information on other than dishonorable discharges, see CRS Report RL33113, *Veterans Affairs: Basic Eligibility for Disability Benefit Programs*, by Douglas Reid Weimer.

- Any Filipino veteran who was a U.S. citizen or an alien lawfully admitted for permanent residence who was residing in the United States at the time of his or her death;
- The spouse or surviving spouse of an eligible veteran;
- Minor and unmarried adult children of an eligible veteran.<sup>12</sup>

All other persons seeking interment in a national cemetery must be approved by the Secretary of Veterans Affairs.<sup>13</sup>

The VA does not provide cremation or funeral arrangement services, which must be made through private funeral providers or cremation offices. The Department of Defense under the National Defense Authorization Act for FY2000 (P.L. 106-65) does provide, at the request of the family, a military honors ceremony that includes folding and presenting the United States burial flag and playing of “Taps.”

### **Ineligible Persons**

According to the Department of Veterans Affairs Website, persons who are not eligible for burial in a VA national cemetery are:<sup>14</sup>

- Former spouses of eligible individuals whose marriages to those individuals were terminated by annulment or divorce, if not otherwise eligible;
- Family members other than those specified as eligible above;
- Persons whose separation from the Armed Forces was under dishonorable conditions or whose character of service resulted in a bar to veterans’ benefits;
- A person who was ordered to report to an induction station but was not actually inducted into military service;
- A person convicted of a federal or state capital crime, for which a sentence of imprisonment for life or the death penalty may be imposed and the conviction is final;<sup>15</sup>
- Any person convicted of subversive activities after September 1, 1959;
- Persons whose only service is active duty for training or inactive duty training in the National Guard or Reserve Component, unless the individual meets the eligibility criteria listed above; or
- Members of groups whose service has been determined by the Secretary of the Air Force under the provisions of Title IV of the GI Bill Improvements Act (P.L. 95-202) as not warranting entitlement to benefits administered by the VA.

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<sup>12</sup> The veteran does not have to be deceased for the spouse or dependents to receive this benefit.

<sup>13</sup> 38 U.S.C. § 2402(6).

<sup>14</sup> For more information on national cemetery burial ineligibility, see VA website’s “Eligibility” page at <http://www.cem.va.gov/bbene/eligible.asp>.

<sup>15</sup> 38 U.S.C. § 2411.

## **Nonmonetary Burial Benefits**

Eligible veterans and active duty members of the Armed Forces can be interred in a national cemetery, and receive a government-furnished headstone or marker, a presidential memorial certificate, and a burial flag.

### **Headstones, Markers, and Private Cemetery Medallions**

All veterans who were discharged for reasons other than dishonorable and whose deaths occurred on or after November 1, 1990, are eligible to receive government-furnished headstones or markers.<sup>16</sup> The Department of Veterans Affairs only furnishes headstones or markers to veterans whose deaths occurred before November 1, 1990, if the graves are not marked with private headstones. Spouses and other eligible dependents of veterans are eligible for headstones or markers only if they are interred in national, military post/base, or state cemeteries.

Veterans or members of their families have the option of selecting flat bronze, granite, or marble markers, or upright granite or marble headstones. However, the chosen style must be consistent with existing monuments at the place of burial.<sup>17</sup> Under current federal regulation, individuals who served in the Armed Forces after September 7, 1980, must have served a minimum of 24 consecutive months on active duty to be eligible for this benefit. Exceptions can be made to this rule by the Secretary under certain circumstances (e.g., death while on active duty). Only the next of kin may apply for a headstone, a marker, or a medallion.<sup>18</sup>

Memorial headstones, markers, and medallions are available for individual veterans or groups of veterans including those who die while on active duty whose remains are not recovered or are unidentified, have remains buried at sea, have remains donated to science, or whose cremated remains have been scattered. Spouses and dependents whose remains are unavailable for interment may also be furnished with memorial headstones in national, military post/base, or state cemeteries. This service is not available for spouses and dependents who are buried in private cemeteries. The application for a government-furnished headstone or marker can be found on the VA website.<sup>19</sup>

Veterans whose deaths occurred on or after November 1, 1990, and are buried in privately marked graves in private cemeteries may elect to receive medallions instead of government-furnished headstones or markers. The medallion, which represents the status of the deceased as a veteran, may be furnished at the request of the veteran's next of kin. The veteran cannot receive both a medallion and a government-furnished headstone or marker.

Regardless of the date of death, the Department of Veterans Affairs will furnish the unmarked grave of a veteran, in any cemetery anywhere in the world, with a government headstone or marker.

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<sup>16</sup> Prior to the Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508), the VA provided headstone allowances for veterans eligible to be buried in a national cemetery, who were buried in a private cemetery. For more information, see P.L. 101-508, Sections 8041-8042.

<sup>17</sup> For more information, see 38 C.F.R. § 30.632.

<sup>18</sup> For more information, see the "Government-Furnished Headstones and Markers" page on the VA website at <http://www.cem.va.gov/pdf/hm.pdf>.

<sup>19</sup> <http://www4.va.gov/vaforms/va/pdf/VA40-1330.pdf>



## Inscriptions

Government-furnished headstones and markers must be inscribed with the legal name of the deceased, branch of service, and the year of birth and death, in this order. Memorial markers must also include “*In Memory Of*” at the top. If space is available, the inscription may also contain any or all of the following: veteran’s rank, war service, military decorations, awards, and month and day of birth and death. All of these elements must be inscribed in the English language.

Additions to the legal name, such as Doctor or Reverend, are not permitted on the mandatory name line of the headstone or marker. However, terms of endearment, nicknames, and other additional personalized inscriptions may, if space is available, be added at the bottom of the headstone or marker with the approval of the VA, which will determine if the requested inscription is judged to be respectful and in good taste.

Headstones and markers may also include emblems of belief, if so desired by the veteran or next of kin. According to the Code of Federal Regulations (CFR), an emblem of belief is “an emblem that represents the decedent’s religious affiliation or sincerely held religious belief system, or a sincerely held belief system that was functionally equivalent to a religious belief system in the life of the decedent.”<sup>20</sup> The Department of Veterans Affairs maintains a list of approved emblems of belief.<sup>21</sup>

## Presidential Memorial Certificates

The Presidential Memorial Certificate (PMC) program was initiated in March 1962 by President John F. Kennedy and has been continued by all subsequent Presidents. The PMC is a gold embossed paper certificate inscribed with the veteran’s name that bears the President’s signature. It honors the memory of honorably discharged deceased veterans.<sup>22</sup> The application for the PMC can be found on the VA website.<sup>23</sup>

In August 2008, the Department of Veterans Affairs released its *Evaluation of the VA Burial Benefits Program: Final Report*. The report conducted surveys and focus groups of veterans and their families. Of the aforementioned benefits, receiving a burial flag, a government-furnished headstone or marker, and military honors at the funeral service are benefits that are widely known by veterans and their families. However, the PMC is not as well known as the other benefits. According to the report, “Of the 37 veteran next of kin participants, only one knew about the Presidential Memorial Certificate (PMC) benefit. Of 29 funeral directors, only two knew about the PMC benefit.” The report also stated that “five out of every six veterans had never heard of the PMC.”<sup>24</sup>

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<sup>20</sup> 38 C.F.R. § 38.632.

<sup>21</sup> The list of approved emblems of belief can be viewed at <http://www.cem.va.gov/hm/hmemb.asp>.

<sup>22</sup> For more information, see the “Presidential Memorial Certificates” page on the VA website at <http://www.cem.va.gov/pdf/pmc.pdf>.

<sup>23</sup> <http://www4.va.gov/vaforms/va/pdf/VA40-0247.pdf>

<sup>24</sup> Department of Veterans Affairs, *Evaluation of the VA Burial Benefits Program: Final Report*, August 2008, pp. 99-126, [http://www1.va.gov/op3/docs/ProgramEvaluations/Final\\_Burial\\_Report\\_8-26-08.pdf](http://www1.va.gov/op3/docs/ProgramEvaluations/Final_Burial_Report_8-26-08.pdf).

The report made the following two major recommendations related to the PMC:<sup>25</sup>

- “Conduct an outreach campaign to better promote the PMC among veterans, veteran family members, and funeral directors”;
- “Develop an Internet Web-based tool so that next of kin and friends can apply on-line for a PMC, which would raise the visibility and value of the PMC. Creating this application is an investment for the future, as the demographics of the veteran population changes to comprise more of those who are comfortable with the Web.”

## **Burial Flag**

The Department of Veterans Affairs will provide a free U.S. flag to the next of kin to drape the casket or accompany the urn of a deceased veteran who served honorably in the U.S. Armed Forces. Like the PMC, it is provided to honor the memory of a veteran’s military service to his or her country. Generally, the flag is given to the next of kin at the funeral service as a keepsake. The family may donate the flag to a national cemetery with an Avenue of Flags to be flown on patriotic holidays.<sup>26</sup> The VA will furnish a burial flag to memorialize the following veterans who were discharged under other than dishonorable conditions:<sup>27</sup>

- veterans who served during wartime;
- veterans who died while on active duty after May 27, 1941;
- veterans who served after January 31, 1955;
- peacetime veterans who were discharged or released before June 27, 1950;
- certain persons who served in the organized military forces of the Commonwealth of the Philippines while in service of the U.S. Armed Forces and who died on or after April 25, 1951; and
- certain former members of the Selected Reserves.

Generally, the funeral director assists the next of kin in applying for a burial flag. However, the application can also be found on the VA website.<sup>28</sup>

## **Monetary Burial Benefits<sup>29</sup>**

The Department of Veterans Affairs burial allowances are partial reimbursements for the burial and funeral costs of eligible veterans and are not intended to cover the full burial or funeral costs. The allowance amount provided depends on whether the veteran’s cause of death was service-connected, non-service-connected, or occurred in a VA facility.

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<sup>25</sup> Ibid., pp. 100, 126.

<sup>26</sup> Avenue of Flags is a traditional name used to describe a large display of American flags.

<sup>27</sup> For more information, see the “Burial Flags” page on the VA website at <http://www.cem.va.gov/pdf/flags.pdf>.

<sup>28</sup> <http://www.vba.va.gov/pubs/forms/VBA-21-2008-ARE.pdf>

<sup>29</sup> For the Legislative History of Monetary Burial Benefits see **Appendix A**.

## ***Eligibility***

The next of kin to the veteran is eligible for reimbursement if he or she paid for the veteran's burial or funeral and has not been reimbursed by another government agency or some other source, such as the deceased veteran's employer.<sup>30</sup>

## ***Veteran Requirements***

In addition to the above next of kin requirements, the deceased veteran must have met one of the following requirements:

- was discharged under conditions other than dishonorable;
- died because of a service-connected disability;
- was receiving a VA pension or compensation at the time of death;
- was eligible to receive a VA pension or compensation, but decided not to so as to avoid a reduction in his or her military retirement or disability pay;
- died while hospitalized at a VA facility, or while receiving care under VA contract at a non-VA facility;
- died while traveling under proper authorization and at VA expense to or from a specified place for the purpose of medical examination, treatment, or care;
- had an original or reopened claim pending at the time of death and had been found to be entitled to compensation or pension from a date prior to the date of death; or
- died on or after October 9, 1996, while a patient at a VA-approved state nursing home.

## **Burial and Plot-Interment Allowance Amount**

### ***Non-Service-Connected Deaths***

The VA is authorized to pay up to \$300 toward a veteran's funeral and burial expenses and up to \$300 toward plot-interment costs.<sup>31</sup> These allowances are only for veterans whose deaths occurred on or after December 1, 2001. For veterans whose deaths occurred before December 1, 2001, there is a plot-interment allowance of \$150.

A veteran's net assets at the time of death do not affect the amount of burial allowance that the next of kin can receive. However, the allowance will be reduced if the burial expenses are paid by the veteran's employer, state, or another government source.<sup>32</sup> In either case, the burial allowance is limited to the difference between the amount the veteran's employer or another government

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<sup>30</sup> For more information, see the "Burial and Plot-Interment Allowances" page on the VA website at <http://www.cem.va.gov/bbene/benvba.asp>.

<sup>31</sup> 38 U.S.C. § 2302.

<sup>32</sup> State includes any political subdivision or agency of a state.

source pays and the maximum amount the Secretary of VA may reimburse. No burial allowances are paid to public or private organizations.<sup>33</sup>

### ***Death in a VA Facility***

If the death of a veteran occurred while he or she was in a VA hospital, under VA-contracted nursing home care, or under nursing home care in which payments were being made by the VA (e.g., in a state nursing home), the Secretary of VA will pay the veteran's burial and funeral costs, not to exceed \$300. In addition, some or all of the costs for transporting the veteran's remains to the state in which he or she will be interred may be reimbursed. However, the VA does not reimburse the costs for transporting the remains of veterans whose deaths occur in other countries.<sup>34</sup>

### ***Service-Connected Deaths***

The Department of Veterans Affairs must pay up to \$2,000 of the veteran's funeral and burial expenses if the veteran died as a result of a service-connected disability.<sup>35</sup> If the veteran's death occurred prior to September 10, 2001, the VA will pay up to \$1,500 of the funeral and burial expenses. If the veteran is buried in a national cemetery, some or all of the cost for transporting the veteran's remains may be reimbursed.

## **2008 Report Findings and Recommendations**

After examining the non-service-connected and service-connected burial and plot allowances, the aforementioned VA report found that the allowances were not meeting their original intent. According to the report, "the intent of the burial and plot allowances are to provide financial assistance to be used on behalf of veterans to offset their burial, funeral and plot costs."<sup>36</sup> Funeral costs have increased at a rate greater than that of other prices since 1990. While recognizing that it is not the intent of the Secretary of VA to cover the cost of the veteran's entire funeral and burial, it concludes that "significant increases in the allowances are necessary to restore the value of these important benefits to original levels."<sup>37</sup> Adjustments have been made to the allowances since 1973 (the first year of service-connected burial allowances), but they have not kept up with the inflation of funeral and burial expenses. According to the report, in 1973, the service-connected burial allowance, non-service-connected burial allowance and plot allowance were found to be 72% of service-connected funeral and burial costs, 22% of non-service-connected funeral and burial costs and 54% of burial plot costs, respectively. By 2007, the value of these allowances had decreased significantly, representing 23% of service-connected funeral and burial costs, 4% of non-service-connected funeral and burial costs and 14% of burial plot costs, respectively.<sup>38</sup>

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<sup>33</sup> 38 U.S.C. § 2302.

<sup>34</sup> 38 U.S.C. § 2402.

<sup>35</sup> 38 U.S.C. § 2307.

<sup>36</sup> Department of Veterans Affairs, *Evaluation of the VA Burial Benefits Program: Final Report*, August 2008, p. 153, [http://www1.va.gov/op3/docs/ProgramEvaluations/Final\\_Burial\\_Report\\_8-26-08.pdf](http://www1.va.gov/op3/docs/ProgramEvaluations/Final_Burial_Report_8-26-08.pdf).

<sup>37</sup> *Ibid.*, pp. 152-162.

<sup>38</sup> *Ibid.*, p. 161.

The report made the following two major recommendations:

- Establish a basis for each allowance, which should be a percentage of the average cost of a funeral, burial, and burial plot. As outlined above, these percentages were estimated to be the following in 1973:
  - Service-connected allowance—72% of funeral and burial costs;
  - Non-service-connected allowance—22% of funeral and burial costs; and
  - Plot allowance—54% of burial plot costs.
- “Develop an annual schedule for reviewing and adjusting the allowances for funeral, burial, and burial plot costs using the Consumer Price Index for funeral expenses maintained by the Bureau of Labor Statistics.”<sup>39</sup>

## National Cemeteries

### The History of National Cemeteries<sup>40</sup>

The development of national cemeteries began as a result of the increasing number of Civil War casualties. On July 17, 1862, Congress enacted legislation authorizing President Abraham Lincoln “to purchase cemetery grounds and cause them to be securely enclosed, to be used as a national cemetery for the soldiers who shall die in the service of the country.”<sup>41</sup> On September 11, 1861, the War Department, under “General Orders No. 75,”<sup>42</sup> made the Army’s Quartermaster-General responsible for the burial of all officers and soldiers and for keeping a register of the burials. Before the 1862 legislation was enacted, soldiers were buried in family-selected private cemeteries, military post cemeteries, or at the sites of their deaths. In 1862, the first 14 national cemeteries were established.

After the Civil War ended in 1865, the Army Quartermaster Department began the Federal Reburial Program to “search for, recover, and identify the remains of all Union soldiers.” Despite extensive efforts, many of the dead soldiers could not be located, and the identities of nearly half of those recovered and reburied were unknown. Approximately 300,000 Union soldiers were recovered by 1870 and buried in 73 national cemeteries, most of which were located in the southeastern United States near Civil War battlefields and campgrounds.

The National Cemetery Act of 1867, enacted by Congress on February 22, 1867, was the first major piece of legislation to provide funds and directives to national cemeteries.<sup>43</sup> A number of amendments to the National Cemetery Act of 1867 were passed in the 1870s. One enacted by Congress on March 3, 1873, expanded eligibility and permitted “the interment of honorably

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<sup>39</sup> Ibid., pp. 161-162.

<sup>40</sup> More detailed history is available on the VA website on the “History and Development of the National Cemetery Administration” page at <http://www.cem.va.gov/pdf/history.pdf>. For the Legislative History of National Cemeteries see **Appendix B**.

<sup>41</sup> 12 Stat. 596, Ch. 200 (1862).

<sup>42</sup> The text is available on the National Park Service Website at <http://www.nps.gov/history/Nr/twhp/wwwlps/lessons/115dayton/115facts3.htm>.

<sup>43</sup> 14 Stat. 399, Ch. 39 (1867).

discharged Soldiers, Sailors, and Marines” in national cemeteries.<sup>44</sup> In response to this change, 47 new cemeteries were established; more durable marble headstones replaced the original wooden headstones; and Army Quartermaster-General Montgomery C. Meigs, with recommendations from landscape architect Frederick Law Olmsted, improved the aesthetics of the new cemeteries.

Near the end of the 19<sup>th</sup> century, former Union and Confederate soldiers began to reconcile their differences and seemed to develop a sense of unity. The feeling spread throughout the country and eventually to Washington, DC. As a result, 264 Confederate soldiers were “re-interred into a newly created ‘Confederate section’ at Arlington National Cemetery in 1901.”

The 1930s proved to be a time of great change in operations for national cemeteries. Congress established the Veterans Administration (VA) in 1930 and made it responsible for the National Homes for Disabled Volunteer Soldiers (NHDVS), later referred to as the National Homes for Disabled Veterans, and the 21 cemeteries located on these properties. On July 10, 1933, Section 2 of Executive Order No. 6166 transferred 11 national cemeteries “from custody of the War Department and Army to the National Park Service (NPS) under the Department of the Interior (DOI).”<sup>45</sup> In 1934 eight World War I cemeteries established abroad were transferred to the custody of the American Battle Monuments Commission (ABMC).<sup>46</sup>

The next three decades were marked primarily by legislation that extended burial eligibility to certain categories of individuals who were not previously eligible to be buried in national cemeteries. In 1967, however, President Lyndon Johnson assigned the VA with the responsibility of conducting a survey of veteran and Army national cemetery programs. As a result of the report that the VA submitted on March 18, 1968, Congress passed the National Cemeteries Act of 1973 (P.L. 93-43), which authorized the transfer of 82 national cemeteries and the procurement of government headstones and markers from the Department of the Army to the Veterans Administration. The Army, however, maintained control and responsibility for Arlington National Cemetery in Arlington, VA, and The U.S. Soldiers’ and Sailors’ Home National Cemetery in Washington, DC.

When the official transfer took place on September 1, 1973, the VA elevated its 21 NHDVS cemeteries to the status of national cemeteries. Combined, the newly structured system consisted of 103 cemeteries. The 1973 act also permanently established the Advisory Committee on Cemeteries and Memorials. Under the VA, the National Cemetery System (NCS), in its first decade of operation, experienced the largest acreage expansion since the Civil War. Thirteen new national cemeteries were established during the 1970s and 1980s. In 1986, Congress passed the Veteran’s Benefits Improvement and Health Care Authorization Act of 1986 (P.L. 99-576), which ordered the VA to identify the areas in the United States that were in the greatest need of veteran burial grounds.

On November 11, 1998, President Bill Clinton signed the Veterans Programs Enhancement Act of 1998 (P.L. 105-368). Section 403 of this law changed the name of the National Cemetery System (NCS) to the National Cemetery Administration (NCA), and it elevated the position of Director of

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<sup>44</sup> 17 Stat. 605, Ch. 276 (1873).

<sup>45</sup> The text of Executive Order No. 6166 is available on the National Archives and Records Administration Website at <http://www.archives.gov/federal-register/codification/executive-order/06166.html>.

<sup>46</sup> For more information on the American Battle Monuments Commission (ABMC), see the ABMC website at <http://www.abmc.gov/commission/index.php>.

the National Cemetery System to Under Secretary for Memorial Affairs. In 1999, the Veterans Millennium Health Care and Benefits Act (P.L. 106-117) required the VA to study future burial needs and mandated the creation of six new national cemeteries in the areas where they were most needed. The National Cemetery Expansion Act of 2003 (P.L. 108-109), enacted on November 11, 2003, authorized the creation of the six new cemeteries.

Since the inception of national cemeteries in 1862, there have been more than 3 million burials in national cemeteries around the United States. Today, there are 131 national cemeteries, along with 33 soldier's lots and monument sites, under the jurisdiction of the VA.

## **Establishing National Cemeteries**

The Secretary of VA has the authority to acquire land for national cemeteries "by purchase, gift (including donations from States or political subdivisions thereof), condemnation, transfer from other Federal agencies, exchange, or otherwise" at his discretion.<sup>47</sup> Although the Secretary has complete autonomy on where the cemeteries should be placed, the VA has a policy designed to place them in the areas where they are most needed.

Current VA policy establishes new national cemeteries in areas where there is no national or state veterans' cemetery within a 75-mile radius, and where there is a population of at least 170,000 unserved veterans.<sup>48</sup> Building a new national cemetery is a six-step process: site selection; environmental assessment; land acquisition; master planning and design development; construction documents preparation; and construction award and completion.<sup>49</sup>

In addition to establishing national cemeteries, the VA assists in establishing state veterans' cemeteries. The State Cemetery Grant Program established in 1978 provides burial funds for states, federally recognized tribal governments, or U.S. territories where national cemeteries do not meet veterans' burial needs. The VA can fund up to 100% of the development cost for the purpose of "establishing, expanding, or improving Veterans cemeteries."<sup>50</sup> Cemeteries established under the program must operate according to the rules, regulations, and guidelines of the National Cemetery Administration.<sup>51</sup>

Under the Veterans' Benefits Improvement and Health-Care Authorization Act of 1986 (P.L. 99-576), and more recently the Millennium Health Care and Benefits Act (P.L. 106-117), Congress required the NCA to submit reports on the current and future need for national cemeteries. The reports are primarily logistical recommendations from the NCA on how best to reach their established goal of servicing 90% of veterans in need of burial services.<sup>52</sup>

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<sup>47</sup> 38 U.S.C. § 2406.

<sup>48</sup> Unserved veterans are those veterans without the option of a national or state cemetery within 75 miles.

<sup>49</sup> For more information, see the VA website's "National Cemetery Development" page at <http://www.cem.va.gov/pdf/newcemdev.pdf>.

<sup>50</sup> For more information, see the VA website's "State Cemetery Grants Program – General Information" page at <http://www.cem.va.gov/scg/scgpinfo.asp>.

<sup>51</sup> *Ibid.*

<sup>52</sup> Logistics Management Institute, Veterans Millennium Health Care and Benefits Act of 1999 Study on Improvements to Veterans Cemeteries, Volume 1: Future Burial Needs, December 2001, pp. 1-3.

To date, the VA has released four such reports. The 1987 and 1994 reports both identified 10 areas around the United States that were in the greatest need of veteran burial space and recommended against “NCS acquisition of state veterans’ cemeteries ... noting that the states were particularly useful in providing services in less populous areas.”<sup>53</sup> The 1994 report also recommended continuing the expansion of existing cemeteries, stating that expansion is “a viable alternative to opening new cemeteries.”<sup>54</sup> As a result of the reports, seven new cemeteries were established and a number of existing cemeteries were expanded.

The 2001 report submitted to Congress concluded that the establishment and first-year operation costs for a national cemetery range “between \$16 million and \$25 million.”<sup>55</sup> The 2001 report also made the following major recommendations: “Continue to encourage grant program cemeteries; Continue to examine ways to expand the service life of existing cemeteries; Build new national cemeteries at or near the locations recommended ... in combination with the previous options.”<sup>56</sup>

According to the most recent 2008 report, “No location in the U.S. will meet the criteria for the establishment of a new national cemetery under the current service area standard (i.e., 75-miles, 170,000 veterans) until 2015.”<sup>57</sup> At that time, the only community that would meet the qualifying population threshold of 170,000 would be the St. Louis, MO, metropolitan area because of the planned closing of Jefferson Barracks National Cemetery around 2017.<sup>58</sup> The report recommends retaining the 75-mile service area standard, but reducing the veteran population threshold from 170,000 to 110,000 to increase the number of unserved communities that could qualify for a new national cemetery. This change would allow two unserved communities to qualify for new national cemeteries: Charleston, WV, and Schuyler, NE.<sup>59</sup>

## Legislation in the 111<sup>th</sup> Congress

A number of bills have been introduced in the 111<sup>th</sup> Congress that would affect nonmonetary and monetary burial benefits, and national cemeteries.

### Nonmonetary Burial Benefits

The following legislation on nonmonetary burial benefits has been introduced in the 111<sup>th</sup> Congress:

H.R. 731—would prohibit any person classified as a tier III sex offender under the Sex Offender Registration and Notification Act from interment or memorialization in a cemetery under the

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<sup>53</sup> Ibid.

<sup>54</sup> Ibid., pp. 1-3.

<sup>55</sup> Ibid., pp. 3-12.

<sup>56</sup> Ibid., pp. 3-12.

<sup>57</sup> Department of Veterans Affairs, *Evaluation of the VA Burial Benefits Program: Final Report*, August 2008, p. 73, [http://www1.va.gov/op3/docs/ProgramEvaluations/Final\\_Burial\\_Report\\_8-26-08.pdf](http://www1.va.gov/op3/docs/ProgramEvaluations/Final_Burial_Report_8-26-08.pdf).

<sup>58</sup> Ibid., p. 165.

<sup>59</sup> Ibid., p. 74 (PDF p. 101).



National Cemetery Administration, Arlington National Cemetery, and certain state veterans' cemeteries.

H.R. 2586—would prohibit the Secretary of Veterans Affairs (VA) from authorizing an honor guard to participate in the funeral of any veteran interred in a national cemetery under the control of the National Cemetery Administration unless the honor guard offers to the family the option of having it perform one of the 13-fold flag recitations.

H.R. 3949 (as passed by the House (H.Rept. 111-324))—would authorize interment in a national cemetery to parents of individuals who died in combat or from a combat-related training injury if those individuals are interred in a national cemetery and have no other eligible survivors. The benefit would be provided only if there is available gravesite space.

## **Monetary Burial Benefits**

The following legislation on monetary burial benefits has been introduced in the 111<sup>th</sup> Congress:

H.R. 1037 (as amended and passed in the Senate)—would increase from \$300 to \$745 the VA payment for (1) burial and funeral expenses of a veteran who dies in a VA hospital, nursing home, or domiciliary care facility; and (2) a plot allowance for a veteran eligible for burial in a national cemetery who is not buried in a national cemetery. The bill also would provide for an annual adjustment of these amounts based on increases in the Consumer Price Index (CPI).

H.R. 2594—would provide a \$300 plot allowance to a state for the interment in state cemeteries of spouses and children of certain veterans who are buried in state cemeteries.

H.R. 4044—would make the plot allowance available to any veteran of war and restore the pre-1990 headstone allowance.

H.R. 4045—would increase the level of the monetary annual allowances and provide for annual inflation adjustment (equal to the Social Security cost-of-living adjustment).

H.R. 6042—would permit the Secretary of VA under certain circumstances to pay the funeral expenses of certain homeless veterans who did not serve during a period of war.

S. 728—would provide, to the extent funds are available, a \$900 supplemental payment for burial and funeral expenses for non-service-connected deaths and \$2,000 for service-connected deaths. The bill also would provide for an annual increase in the amounts based on the CPI.

## **National Cemeteries**

The following legislation on national cemeteries has been introduced in the 111<sup>th</sup> Congress:

H.R. 174 and S. 691—would direct VA to establish a new national cemetery for veterans in El Paso County, CO.

H.R. 217—would direct VA to acquire, subject to available appropriations, a specified parcel of land in Beaufort, SC, to be used for expansion of the Beaufort National Cemetery. The bill also would grant the VA the authority to accept donations of land.

H.R. 1114—would direct VA to establish a process for determining whether a geographic area is sufficiently served by the national cemeteries located in that area, taking into account, among other things, (1) the number of veterans living in the area; and (2) the average distance a resident of the area must travel to reach the nearest national cemetery. In the case of an area with insufficient land to establish a cemetery, the VA must consider alternatives such as establishing a mausoleum.

H.R. 1163 and S. 746—would direct VA to establish a national cemetery in Sarpy County, NE.

H.R. 2642—would direct VA to cooperate with veteran service organizations to assist entities in possession of unclaimed or abandoned human remains to determine if any such remains are the remains of veterans or other individuals eligible for burial in a national cemetery. The bill would require VA, upon a positive determination with respect to any such remains, to provide for and cover the cost of the burial and funeral expenses if the Secretary determines that (1) there is no next of kin or other person claiming the remains; and (2) there are no other sufficient resources to cover such expenses. The bill also would direct the Secretary to establish a publicly accessible national database of the names of any veterans or other individuals identified.

H.R. 3544—would direct VA to give priority to a location where at least 110,000 veterans reside within a 75-mile radius. It also would require the Secretary, in conducting an annual performance measure of the percentage of veterans served by a cemetery, to (1) use census tracts, rather than counties, to test and identify potential cemetery locations and to determine the percentage of veterans served; (2) use methods to avoid the double counting of veterans in overlapping service areas; and (3) count veterans who reside in counties bisected by a service area using a proportional overlay method.

H.R. 5879—would expand eligibility for interment in national cemeteries to individuals who supported the United States in Laos during the Vietnam War era.

## **Appendix A. Legislative History of Monetary Burial Benefits (Funeral, Burial, and Plot Allowances)**

The earliest reference to a federal monetary burial allowance for veterans was during World War I. Changes that were made to the burial allowance for veterans between 1917 and 2001 are as follows:

### **1917: War Risk Insurance Act Amendment (P.L. 65-90)**

Provided a maximum payment of \$100 for a veteran's burial expenses and the return of the veteran's remains to his home if the death occurred before discharge or resignation from military service.

### **1924: World War Veterans' Act, 1924 (P.L. 68-242)**

Established service-connected and non-service-connected burial allowances of \$100.

### **1933: P.L. 73-2**

Increased both service-connected and non-service-connected burial allowances to \$107.

### **1936: P.L. 74-844**

Provided that the burial allowance would not be denied based on the deceased veteran's net assets at the time of death. This law further established a one-year limit after burial for filing a claim for the allowance; required the Veterans' Administration (VA) to notify the claimant of any information required to complete the claim; and stipulated that the allowance would not be granted if the evidence was not provided within one year of the date of the request.

### **1957: Veterans Benefits Act of 1957 (P.L. 85-56)**

Provided a burial allowance of \$150 to cover burial and funeral expenses, preparation of the body, and transportation to the place of burial for a deceased veteran of any war who had been discharged from active military service due to disability or was receiving disability compensation. The burial allowance was not to be denied based on the veteran's net assets at the time of death. The allowance would be reduced by any contributions paid by a government agency, the deceased veteran's employer, or a burial association, and the balance of the burial allowance (up to the \$150) would be paid to the claimant.

### **1958: P.L. 85-674**

Increased the burial allowance to \$250.

**1958: P.L. 85-857**

Mandated VA to pay the \$250 burial allowance for a veteran who died in a VA facility if the veteran had been properly admitted for hospital or domiciliary care. The VA was permitted to enter into contracts to provide the burial and funeral services for veterans who died in VA facilities. P.L. 85-857 also mandated the VA to pay for transporting the bodies of veterans who died in VA facilities to the place of burial; and clarified that the \$250 burial allowance was not to be paid for deaths prior to August 19, 1958. P.L. 85-857 also extended the filing period for reimbursement claims to two years after the burial of the veteran.

**1964: P.L. 88-359**

Eliminated the offset against the VA burial allowances for amounts paid by burial associations.

**1966: P.L. 89-360**

Extended the \$250 burial allowance to peacetime veterans who died because of service-connected disabilities but had not applied for disability compensation.

**1973: National Cemeteries Act of 1973 (P.L. 93-43)**

Provided a plot or interment allowance of \$150 for veterans who were not buried in national cemeteries. This allowance was applied to the difference between the total plot or interment expenses and the amount paid by a state, a state agency or subdivision, or the deceased veteran's employer. P.L. 93-43 also required the VA to provide headstones or markers for unmarked graves of veterans buried in national or military post/base cemeteries; certain individuals eligible for burial in national cemeteries, but not buried in national cemeteries; and soldiers of the Union and Confederate Armies of the Civil War. The VA also was mandated to provide headstones or markers, when requested, for veterans whose remains had not been recovered or were buried at sea for placement by the applicants. P.L. 93-43 also provided that the survivors of veterans who died due to service-connected disabilities may request that the VA pay burial and funeral expenses at the amount authorized for the death of a federal employee due to an injury incurred in the performance of duty (\$800) instead of the standard VA burial and plot allowances.

**1978: Veterans' Housing Benefits Improvement Act of 1978 (P.L. 95-476)**

Extended the \$150 plot allowance to states (or their political subdivisions) for the burial of veterans eligible for burial in national cemeteries in state veterans' cemeteries. If the veterans are not buried in cemeteries (or portions of cemeteries) that are solely for the interment of persons eligible for burial in national cemeteries, the plot allowance is limited to those total costs not paid by the states (or their political subdivisions) or the veterans' employers.

**1978: Veterans' Disability Compensation and Survivors' Benefits Act of 1978 (P.L. 95-479)**

Increased the burial allowance to \$300. P.L. 95-479 also limited the burial and funeral expenses paid for a veteran who died of a service-connected disability to \$1,100.

**1981: Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35)**

Limited payment of the burial allowance to the cases of veterans who were eligible to receive pensions or disability compensation.

**1982: Veterans' Compensation, Education, and Employment Amendments of 1982 (P.L. 97-306)**

Provided that the VA administrator may pay the burial allowance to states (or their political subdivisions) that are holding the bodies of eligible indigent deceased veterans whose remains are unclaimed and for whom there are insufficient resources to cover burial and funeral expenses. P.L. 97-306 also provided that the burial allowance would be paid for veterans who died in VA-contracted nursing homes.

**1988: Veterans' Benefits and Services Act of 1988 (P.L. 100-322)**

Increased the burial allowance for veterans who died from service-connected disabilities to \$1,500.

**1996: Veterans' Benefits Improvements Act of 1996 (P.L. 104-275)**

Provided that a \$300 burial allowance would be paid for veterans who died in state nursing homes.

**2000: Veterans Benefits and Health Care Improvement Act of 2000 (P.L. 106-419)**

Extended the plot and interment allowance for burial in state veterans' cemeteries to members, or former members, of Armed Forces reserve components not otherwise eligible for burial in national cemeteries. This law also extended eligibility for interment in national cemeteries to certain Filipino veterans of World War II.

**2001: Veterans Education and Benefits Expansion Act of 2001 (P.L. 107-103)**

Increased the plot allowance to \$300 and the burial and funeral allowance for veterans who died due to service-connected disabilities to \$2,000.

## **Appendix B. Legislative History of National Cemeteries**

The earliest reference to the national cemetery program is found in General Orders No. 75 (1861). Subsequent major changes that were made to the national cemetery program are as follows:<sup>60</sup>

### **1861: General Orders No. 75**

Made Quartermaster responsible for the burial of (Union) officers and soldiers and for keeping a register of all burials. Also stipulated that a headstone was to be placed at the head of each grave.

### **1867: National Cemetery Act (Chapter 61 of the Acts of the 39<sup>th</sup> Congress)**

Provided funds and set guidelines for the establishment and protection of national cemeteries.

### **1872: Chapter 173 of the Acts of the 42<sup>nd</sup> Congress**

Authorized the Secretary of War to appoint “meritorious and trustworthy” soldiers as superintendents of national cemeteries.

### **1872: Chapter 257 of the Acts of the 42<sup>nd</sup> Congress**

Amended the National Cemetery Act to allow all honorably discharged soldiers and sailors who were destitute to be buried in national cemeteries.

### **1873: Chapter 276 of the Acts of the 42<sup>nd</sup> Congress**

Allowed all honorably discharged soldiers, sailors, and marines who served in the Civil War in the regular or volunteer forces to be buried in national cemeteries at no cost.

### **1906: P.L. 59-38**

Provided for the appropriate marking of the graves of Confederate soldiers and sailors who died in northern prisons and military hospitals and were buried near those prisons and hospitals.

### **1920: P.L. 66-175**

Expanded eligibility for burial in national cemeteries to U.S. citizens “who served in the Army or Navy of any government at war with Germany or Austria during the World War” and who died during service or after being honorably discharged.

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<sup>60</sup> Department of Veterans Affairs, *Evaluation of the VA Burial Benefits Program: Final Report*, August 2008, pp. 15-20 (PDF), [http://www1.va.gov/op3/docs/ProgramEvaluations/Final\\_Burial\\_Report\\_8-26-08.pdf](http://www1.va.gov/op3/docs/ProgramEvaluations/Final_Burial_Report_8-26-08.pdf).

**1923: P.L. 67-534**

Established the American Battle Monuments Commission to erect suitable memorials commemorating the service of American soldiers in Europe.

**1930: P.L. 71-536**

Established the Veterans Administration (VA) and made it responsible for the National Homes for Disabled Volunteer Soldiers (NHDVS) and the 21 cemeteries located on those properties.

**1933: Executive Order No. 6166**

Transferred 11 national cemeteries from the custody of the War Department and the Army to the National Park Service under the Department of the Interior.

**1948: P.L. 80-526**

Expanded eligibility for burial in a national cemetery to the eligible survivors of veterans.

**1959: P.L. 86-260**

Expanded eligibility for burial in national cemeteries to Army or Air National Guard and Reserves and to Reserve Officer Training Corps (ROTC) members if they were doing exercises or were on active duty at the time of death.

**1973: National Cemetery Act of 1973 (P.L. 93-43)**

Transferred custody of national cemeteries from the Army to VA's newly established National Cemetery System. VA cemeteries were elevated to national cemetery status. The Army retained control of Arlington National Cemetery and the cemetery at the U.S. Soldiers' and Airmen's Home. The NCS was given responsibility for veterans' headstones and markers. This law distinguished between service-connected and non-service-connected deaths for allowances. It added benefit of transportation of remains under certain circumstances.

**1978: Veterans' Housing Benefits Act of 1978 (P.L. 95-476)**

Authorized the VA to pay a \$150 burial allowance to states for the burial of veterans eligible to be buried in national cemeteries in state veterans' cemeteries. Authorized a program of grant assistance to states to establish, expand, and improve state veterans' cemeteries.

**1986: Veterans' Benefits Improvement and Health-Care Authorization Act of 1986 (P.L. 99-576)**

Mandated the VA to conduct studies to identify the 10 geographic areas within the United States with the greatest need for additional veterans' burial space.

**1998: Veterans Programs Enhancement Act of 1998 (P.L. 105-368)**

Redesignated the National Cemetery System as the National Cemetery Administration, and designated the position of Director of the National Cemetery System as the Under Secretary for Memorial Affairs. Also extended eligibility for burial in a national cemetery to qualified merchant mariners.

**1999: Veterans Millennium Health Care and Benefits Act (P.L. 106-117)**

Directed the VA Secretary to contract with one or more qualified organizations to conduct independent studies for improvements to veterans' burial benefits and for improvements to veterans' cemeteries. Mandated the Secretary to establish national cemeteries in the six U.S. areas where they are most needed.

**2003: National Cemetery Expansion Act of 2003 (P.L. 108-109)**

Authorized the establishment of six new national cemeteries in the following areas: Birmingham, AL; Bakersfield, CA; Jacksonville, FL; Sarasota County, FL; southeastern Pennsylvania; and Greenville/Columbia, SC.

**2003: Veterans Benefits Act of 2003 (P.L. 108-183)**

Expanded eligibility for burial in a national cemetery to remarried surviving spouses of deceased veterans. Permanently authorized the state veterans' cemeteries grant program under the VA.

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